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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 17 April 2003 from the Permanent Representative of Brazil to the United Nations addressed to the Chairman of the Committee

In response to your letter dated 4 March 2003, I have the honour to enclose herewith an updated report on the steps taken by the Government of Brazil to implement the measures imposed by Security Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002), as requested by the Security Council in resolution 1455 (2003).

(*Signed*) Ronaldo Mota **Sardenberg**
Ambassador
Permanent Representative

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Annex to the letter dated 17 April 2003 from the Permanent Representative of Brazil to the United Nations addressed to the Chairman of the Committee

Report to the Security Council Committee established by resolution 1267 (1999), pursuant to paragraphs 6 and 12 of resolution 1455 (2003)

I. Introduction

1. Please provide a description of activities, if any, by Usama Bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

Until the present date, no persons against whom exist restrictions/sanctions concerning admission, transit or departure to/from Brazilian territory have been located in Brazil. In accordance with international law, Brazil is fully committed to the implementation of all resolutions of the Security Council of the United Nations concerning threats to peace and security in its various forms.

II. Consolidated List

(to be circulated to member states every three months)
www.un.org/Docs/sc/committees/1267/1267ListEng.htm

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

The resolutions of the Security Council of the United Nations are incorporated in Brazilian domestic law by a decree of the President of the Republic. Certain prohibitions, such as diplomatic sanctions and restrictions to the transit of people, do not require specific legislation to be put into effect, since the Government is already competent to adopt the necessary measures based on existing legislation.

Sanctions adopted against Usama Bin Laden, Al-Qaida, the Taliban and their associates have been incorporated to Brazilian legislation by the following normative acts:

a) Decree 4.150, of 6 March 2002 [Resolution 1390 (2002) of the Security Council, of 16 January 2002];

b) Decree 4.142, of 22 February 2002 [Resolution 1.388(2002) of the Security Council, of 15 January 2002];

c) Decree 3.755, of 19 February 2001[Resolution 1.333(2000) of the Security Council, of 19 December 2000];

d) Decree 3.267, of 30 November 1999 [Resolution 1.267(1999) of the Security Council, of 15 October 1999].

e) Decree 4599, of 19 February 2003 [Resolution 1.455(2003) of the Security Council, of 17 January 2003].

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

No.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

No. Until the present date, the above mentioned individuals have not been located in Brazil.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

Until the present date, the Brazilian Government has neither identified any member of the Taliban or Al-Qaida in its Territory nor is in possession of intelligence data that permits any inclusion of suspects in the List. See item 1.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

No. See item 1. See item 5.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

No. See item 1. See item 5.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

This question has already been answered in previous reports to the Counter-Terrorism Committee of the United Nations Security Council, concerning the application of Resolution 1373 (2001), as well as in the report dated March 2002 to the Committee of the United Nations Security Council concerning the application of Resolution 1390 (2002).

Counter-Terrorism Committee of the United Nations Security Council, concerning the application of Resolution 1373 (2001)

Report dated 26 December 2001 (S/2001/1285):

- See item 2, concerning paragraph 1 of Resolution 1373 (2001) (measures taken to suppress the financing of terrorist acts).
- See item 3, concerning paragraph 1 (b) of Resolution 1373 (2001) (measures taken to criminalise the wilful provision or collection of funds in order to carry out terrorist acts).
- See item 5, concerning paragraph 1(d) of Resolution 1373 (2001) (measures taken to prohibit nationals and legal entities from making funds, assets or economic resources and other services that favour the commission of terrorist acts available).
- See item 6, concerning paragraph 2 of Resolution 1373 (2001) (legislation in effect to criminalise any provision of support, active or passive, to persons involved in terrorist acts, including measures taken to suppress recruitment of members of terrorist groups, as well as the supply of weapons to terrorists).
- See item 7, concerning paragraph 2 (b) of Resolution 1373 (2001) (other measures taken to avoid the commission of terrorist acts including the provision of early warnings and exchange of information. Explains the National Public Security Plan, of June 2000; as well as the implementation of domestic and international measures in areas concerning nuclear materials, chemicals, and biological materials.
- See item 8, concerning paragraph 2 (c) of Resolution 1373 (2001) (measures taken to deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe haven, specially compulsory measures to exclude and expel individuals, such as extradition, deportation and expulsion).
- See item 10, concerning paragraph 2 (d) of Resolution 1373 (2001) (measures taken to establish terrorist acts as serious criminal offences).
- See items 11, 13, 14, 15, 17 concerning paragraphs 2 (f); 3; 3 (b); 3 (c) and 3(e) of Resolution 1373 (2001) (measures, procedures and mechanisms in place to assist as well as to cooperate with other countries to repress the financing, support, and the commission of terrorist acts, including forfeiture and preventive measures).
- See item 12, concerning paragraph 2 (g) of Resolution 1373 (2001) (measures taken to prevent the movement of terrorist groups).

Report dated 8 July 2002 (S/2002/796)

- See item 1, concerning paragraph 1 (a) of Resolution 1373 (2001) (provisions of act 9.613/98 to suppress the financing of terrorist acts).
- See item 2, concerning paragraph 1 (b) of Resolution 1373 (2001) (measures taken to criminalise the wilful provision or collection of funds in order to carry out terrorist acts. Additional information about Brazilian money laundering legislation).
- See item 4, concerning paragraph 1(d) of Resolution 1373 (2001) (legal provisions that govern the collection and use of funds by bodies, such as charitable institutions).

- See item 5, concerning paragraph 2 (a) of Resolution 1373 (2001) (Additional information about Brazilian legislation that criminalise recruitment in Brazil to terrorist groups outside Brazil).
- See item 6, concerning paragraph 2 (b) of Resolution 1373 (2001) (Additional information about early warnings systems to prevent the commission of terrorist acts)
- See item 7, concerning paragraph 2 (c) of Resolution 1373 (2001) (detailed provisions in Brazilian legislation about co-operation on matters of criminal investigation and judicial procedure)
- See item 8, concerning paragraph 2 (d) of Resolution 1373 (2001) (detailed information about provisions of law that prohibit providing support to terrorism outside Brazil).
- See item 10, concerning paragraph 2 (g) of Resolution 1373 (2001) (information about federal and provincial co-operation mechanisms to ensure border control).
- See items 11, 12, 13 concerning paragraphs 3 (d); 3(f); 3(g) of Resolution 1373 (2001) (implementation of relevant international conventions and protocols concerning terrorism).

Report dated 15 March 2003:

See Item 1.3 that reads:

"The wilful provision or collection, by any means, directly or indirectly, of funds by the nationals of Brazil or in its territory with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts has already been criminalised in Brazil.

Act 7.170/83[1], Article 20, punishes wilful terrorism financing: "*To cause havoc, to plunder, to extort, to steal, to kidnap, to keep in home-imprisonment, to burn down, to depredate, to provoke explosion, to practice personal assault or acts of terrorism, for political reasons or for the obtention of funds that are destined to the maintenance of clandestine or subversive organisations*".[2] Terrorist organisations may extort ordinary people, the same way Mafia-like organisations do, in order to finance their criminal activities. One of the key characteristics of terrorist organisations is their political motivation and their clandestine nature. The penalty for wilful terrorism financing varies from 3 to 30 years of prison.

Act 7.170/83, Article 24, also punishes a different variation of wilful terrorism financing: "*To recruit, to be part of or to sustain military-like illegal organisations, of any kind, of armed nature or not, with or without uniform, with goal of combat*".[3] Whoever sustains a military-like illegal organisation, supports, finances this organisation. From the perspective of Brazilian legislation, terrorist organisations may be considered military-like organisations, since the majority of them have the goal of combat. In light of Article 24, wilful terrorism financing is not ancillary to terrorist acts. Even if terrorist acts have not

[1] Bill n. 7.710, of 14 December 1983 "*Defines the crimes against National Security, social and political order, and establishes the legal procedure for the judgement of such offences and other provisions.*"
[2] See Act 7.170/83 at "*Presidência da República*"; "*Subchefia para Assuntos Jurídicos*" http://www.planalto.gov.br/ccivil_03/Leis/L7170.htm
[3] Ibiden.

been committed, one may commit wilful terrorism financing. To sustain, to support, and to finance terrorist organisations is all that Act 7.170/83, Article 24, requires. The penalty for wilful terrorism financing varies from 2 to 8 years in prison."

III. Financial and Economic Asset Freeze

Under the sanctions regime (paragraph 4(b) of resolution 1267 (1999) and paragraphs 1 and 2(a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

NOTE: For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable[6].

9. Please describe briefly:

• The domestic legal basis to implement the asset freeze required by the resolutions above:

• Any impediments under your domestic law in this context and steps taken to address them.

Report dated 26 December 2001 (S/2001/1285) to the Counter-Terrorism Committee of the United Nations Security Council, concerning the application of Resolution 1373 (2001):

- See item 2, concerning paragraph 1 of Resolution 1373 (2001) (measures taken to suppress the financing of terrorist acts).
- See item 4, concerning paragraph 1 (c) of Resolution 1373 (2001) (legislation and procedures for freezing accounts and assets at banks and financial institutions).
- See item 5, concerning paragraph 1(d) of Resolution 1373 (2001) (measures taken to prohibit nationals and legal entities from making funds, assets or economic resources and other services that favour the commission of terrorist acts available).
- See items 11, 13, 14, 15, 17 concerning paragraphs 2 (f); 3; 3 (b); 3 (c) and 3(e) of Resolution 1373 (2001) (measures, procedures and mechanisms in place to assist as well as to co-operate with other countries to repress the financing, support, and the commission of terrorist acts, including forfeiture and preventive measures).

Report dated 8 July 2002 (S/2002/796) to the Counter-Terrorism Committee of the United Nations Security Council, concerning the application of Resolution 1373 (2001):

- See item 3, concerning paragraph 1 (c) of Resolution 1373 (2001) (measures to freeze funds and other financial assets belonging to persons and entities associated with terrorism).

[6] From the International Convention for the Suppression of the Financing of Terrorism, 1999

Report dated 15 of March 2003 to the Counter-Terrorism Committee of the United Nations Security Council, concerning the application of Resolution 1373 (2001):

See item 1.7 that reads:

"The Code of Criminal Procedure allows, Article 125 and Article 132, the freezing and seizure of tangible and intangible assets that have been acquired with the proceeds of crime, whether resident or non-resident alike, including on request of another country, even when they have been transferred to third parties.[5]

When ordered by legal courts, the Central Bank of Brazil points out to financial institutions (and other specific entities listed by law), which values and goods from both individuals and firms shall be subject to freezing and seizure.

Act 9613/98 explicitly allows the freezing and seizure of terrorism related funds in light of Article 4. Terrorism, according to Act 9613/98, Article 1, II, is money laundering predicate offence.

The wilful provision or collection, by any means, directly or indirectly, of funds by the nationals of Brazil or in its territory with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts has already been criminalised in Brazil by Act 7.170/83, Articles 20 and 24."

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Usama Bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are co-ordinated nationally, regionally and/or internationally.

Report dated 26 December 2001 (S/2001/1285) to the Counter-Terrorism Committee of the United Nations Security Council, concerning the application of Resolution 1373 (2001):

- See item 2, concerning paragraph 1 of Resolution 1373 (2001) (measures taken to suppress the financing of terrorist acts).
- See item 3, concerning paragraph 1 (b) of Resolution 1373 (2001) (measures taken to criminalise the wilful provision or collection of funds in order to carry out terrorist acts).
- See item 7, concerning paragraph 2 (b) of Resolution 1373 (2001) (information about the National Security Plan, Brazilian security agencies, and other relevant issues)

[5] See Presidência da República. Subchefia de Assuntos Jurídicos. http://www.planalto.gov.br/ccivil_03/Decreto-Lei/Del3689.htm

Report dated 8 July 2002 (S/2002/796) to the Counter-Terrorism Committee of the United Nations Security Council, concerning the application of Resolution 1373 (2001):

- See item 1, concerning paragraph 1 (a) of Resolution 1373 (2001) (relation between federal laws relating to anti-terrorism and Brazil States - provinces, as well as the co-ordination amongst the various agencies).
- See item 4, concerning paragraph 1(d) of Resolution 1373 (2001) (legal provisions that govern the collection and use of funds by bodies, such as charitable institutions).

In Accordance with the rules and procedures established by the Central Bank, all foreign exchange operations in Brazil must be registered in the Central Bank Information System ("SISBACEN"), as well as all operations involving bank deposits maintained by non-residents in Brazilian banks up to R$ 10 thousand. In order to monitor those daily registers (approximately 13.000 foreign exchange operations and 200 operations involving non-resident accounts) the Central Bank of Brazil uses a computerised system that selects operations for further analysis based on predefined parameters. Among other criteria, selection depends on the classification of the operation. Donations and other types of transference of assets made by non-profit organisations or non-governmental entities are subject to rigid analysis. Overseas donations are also subject to specific regulations (Official Communiqué number 9.068 of the Central Bank of Brazil, dated 4 December 2001).

The Department to Combat Illegal Exchange and Financial Transactions of the Central Bank (DECIF) is competent to establish administrative procedures, based on circumstantial evidence of the practice of illegal acts. The above mentioned proceedings, as well as the possible penalties are established in Resolution 1.065/85 of the National Monetary Council (CMN), modified by Resolution 2.228/96 (CMN). All rules have been consolidated in the Manual of Rules and instructions (MNI). Among other legal dispositions, Act 9.613, of 3 March 1998, that criminalises "money laundering " and establishes mechanisms to prevent the use of the financial system for the commission of crimes, Act 9.784/99, of 29 January 1999, as well as Complementary Act 105, of 10 January 2001, authorises the lifting of banking secrecy rules of financial institutions for investigation of crimes including acts of terrorism.

In case signs of irregularities are observed, the DECIF shall inform the competent entities — The Public Prosecutors Office, Federal Tax Office as well as the Financial Activities Control Council of the Ministry of the Treasury (COAF) — in order to make investigations possible. COAF, is also competent to conduct investigations on its own.

11. Please convey the steps banks and or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama Bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements[6]. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

Brazil is in full compliance with the recommendations of the Group of Egmont and follows the Forty Recommendations of the Financial Action Task Force on Money Laundering (FATF) concerning the subject.

In Accordance with the rules and procedures established by the Central Bank, all foreign exchange operations in Brazil must be registered in the Central Bank Information System ("SISBACEN"), as well as all operations involving bank deposits maintained by non-residents in Brazilian banks up to R$ 10 thousand. In order to monitor those daily registers (approximately 13.000 foreign exchange operations and 200 operations involving non-resident accounts) the Central Bank of Brazil uses a computerised system that selects operations for further analysis based on predefined parameters. Among other criteria, selection depends on the classification of the operation. Donations and other types of transference of assets made by non-profit organisations or non-governmental entities are subject to rigid analysis. Overseas donations are also subject to specific regulations (Official Communiqué number 9.068 of the Central Bank of Brazil, dated 4 December 2001).

Article 44 of Act. 4.595, of 31 December 1964, establishes legal penalties for the financial institutions, its directors, members of the Administrative Boards, inspectors, managers and others that infringe the rules of the Brazilian Financial System or deal with illicit assets without taking the proper measures to identify them. Funds and assets that belong to terrorist groups can be frozen, confiscated and seized. For more details see item 10.

[6] For details see third report of the Monitoring Group of 17 December 2002, (S/2002/1338), paras. 27-29 .

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities." Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

•identification(s) of the person or entities whose assets have been frozen;

•a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);

•the value of assets frozen.

Until the present date, The Central Bank of Brazil and the Council for Financial Activities Control (COAF - is the Brazilian Financial Intelligence Unit - FIU) have not identified financial assets that belong to any person on the List.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

Until the present date, The Central Bank of Brazil and the Council for Financial Activities Control (COAF - is the Brazilian Financial Intelligence Unit - FIU) have not identified financial assets that belong to any person in the List.

14. Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

•The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.

Brazil is in full compliance with the recommendations of the Group of Egmont and follows the Forty Recommendations of the Financial Action Task Force on Money Laundering (FATF) concerning the subject.

In Accordance with the rules and procedures established by the Central Bank, all foreign exchange operations in Brazil must be registered in the Central Bank Information System ("SISBACEN"), as well as all operations involving bank deposits maintained by non-

residents in Brazilian banks up to R$ 10 thousand. In order to monitor those daily registers (approximately 13.000 foreign exchange operations and 200 operations involving non-resident accounts) the Central Bank of Brazil uses a computerised system that selects operations for further analysis based on predefined parameters. Among other criteria, selection depends on the classification of the operation. Donations and other types of transference of assets made by non-profit organisations or non-governmental entities are subject to rigid analysis. Overseas donations are also subject to specific regulations (Official Communiqué number 9.068 of the Central Bank of Brazil, dated 4 December 2001).

•Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.

See the previous answer.

•Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.

•Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.

•Restrictions or regulations, if any, applicable to alternate remittance systems such as -- or similar to -- "hawala", as well as on charities, cultural and other non-profit organisations engaged in the collection and disbursement of funds for social or charitable purposes.

Non-profit entities that benefit from tax immunity (Act 9.532/97, Article 12, *caput*) and non-profit entities that benefit from income tax exemption and social contribution exemption (Act 9.532/97, Article 15, *caput*) are required to present, annually, a revenue declaration to the Federal Tax Office[7] (Act 9.532/97, Article 12, paragraph 2, "e"[8] and Act 9.532/97, Article 15, paragraph 3[9]).

Non-profit entities that receive resources from the State are subject to accounting, financial, and budgetary control (Federal Constitution, Section IX), as prescribed by Act 9.790/99, Article 4, Paragraph 7, "d"[10]. They are subject to both external and internal control, especially of the Court of Accounts of the Union [11], subordinated to Congress.

Non-profit entities that benefit from tax immunity and non-profit entities that benefit from income tax exemption and social contribution exemption are required to make their reports or other information about their operations available to State Attorneys.[12]

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[7] In Portuguese, "*Receita Federal*".
[8] Act 9.790/99, Article 12, paragraph 2, "e"
[9] Act 9.790/99, Article 15, and paragraph 3.
[10] Act 9.790/99, Article 4, Paragraph 7, "d".
[11] See Federal Constitution, Section IX at http://www.uni-wuerzburg.de/law/br00000_.html.
[12] See "Promotoria de Justiça de Tutela das Fundações e Entidades de Interesse Social" at http://mpdft.gov.br/Orgaos/PromoJ/Pjfundacoes/fundacoes.htm.

The Ministry of Justice monitors non-profit entities that receive resources from the State,[13] the so-called "Civil Society Organisations of Public Interest". In order to be granted "Public Interest" status, charities must apply to the Ministry of Justice. Over 50% of such applications are denied as legally non-conforming. A database with all non-profit entities that are entitled to receive resources from the State in order to provide activities for the benefit of the population is available online.[14] Non-profit entities that receive resources from the State must make their activities and financial report publicly available, annually.[15] State Attorneys are also allowed to monitor "Civil Society Organisations of Public Interest".[16]

Access to information is ensured to everyone (Federal Constitution, Article 5, and XIV). All persons are entitled to receive from government agencies information of private interest to such persons or of collective or general interest which shall be provided within the period established by law, subject to liability, with the exception of information whose secrecy is vital to the security of society and of the State (Federal Constitution, Article 5, XXXIII). The results of such government oversight are not considered as vital to the security of society and of the State. Therefore, secrecy laws do not protect them. Any citizen is entitled to file a representation petition, thereby asking State Attorneys to investigate irregularities that are supposed to have occurred in charitable organisations.

In Accordance with the rules and procedures established by the Central Bank, all foreign exchange operations in Brazil must be registered in the Central Bank Information System ("SISBACEN"), as well as all operations involving bank deposits maintained by non-residents in Brazilian banks up to R$ 10 thousand. In order to monitor those daily registers (approximately 13.000 foreign exchange operations and 200 operations involving non-resident accounts) the Central Bank of Brazil uses a computerised system that selects operations for further analysis based on predefined parameters. Among other criteria, selection depends on the classification of the operation. Donations and other types of transference of assets made by non-profit organisations or non-governmental entities are subject to rigid analysis. Overseas donations are also subject to specific regulations (Official Communiqué number 9.068 of the Central Bank of Brazil, dated 4 December 2001).

In 2001, the Financial Action Task Force on Money Laundering (FATF) decided to begin a review of the Forty Recommendations. A number of factors make such a review desirable. The FATF has identified several areas in which possible changes could be made to Forty

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[13] See "Ministério da Justiça". Secretaria Nacional de Justiça. http://mj.gov.br/snj/oscip.htm.

[14] See "Ministério da Justiça". Secretaria Nacional de Justiça. http://www.mj.gov.br/sistemas/OSCIP/index.asp.

[15] Act 9.790/99, Article 4, VI, "b": "*que se dê publicidade por qualquer meio eficaz, no encerramento do exercício fiscal, ao relatório de atividades e das demonstrações financeiras da entidade, incluindo-se as certidões negativas de débitos junto ao INSS e ao FGTS, colocando-os à disposição para exame de qualquer cidadão.*"

[16] See "Promotoria de Justiça de Tutela das Fundações e Entidades de Interesse Social" at http://mpdft.gov.br/Orgaos/PromoJ/Pjfundacoes/fundacoes.htm.

Recommendations. One of these sectors is the so-called "non-financial businesses and professions area".[17]

The FATF is actually considering whether the Forty Recommendations should be extended to cover seven categories of non-financial businesses and professions: casinos and other gambling businesses, dealers in real estate and high value items, company and trust service providers, lawyers, notaries, accounting professionals and investment advisors, given the increased use, by criminals, of professionals and of other intermediaries for obtaining advice or other assistance in laundering criminal funds.[18]

As regards "casinos and other gambling businesses", it should be noted that casinos are not allowed to function in Brazil in accordance with Executive Act 9.125/46[19].

Act 9613/98, Article 9, Paragraph, VI, explicitly determines that other gambling businesses, namely "bingos" and lotteries, are subject to the requirements of customer identification, record-keeping and suspicious transactions reports, established, respectively, by Chapter 6 and Chapter 7. Council for Financial Activities Control (COAF)[20] Resolution no. 03, of June 02, 1999; Resolution no. 05, of July 2, 1999; and Resolution no. 09, of December 2000[21] have regulated these requirements.

Act 9613/98, Article 9, Paragraphs X and XI, determines that dealers in real estate and high value items are subject to the requirements of customer identification, record-keeping and suspicious transactions reports, established, respectively, by Chapter 6 and Chapter 7. Council for Financial Activities Control (COAF) Resolution no. 01, of April 01, 1999; Resolution no. 04, of June 02, 1999; and Resolution no. 08, of September 15, 1999 has regulated these requirements.

Company and trust service providers do not exist, as such, in Brazil. There is no specific legislation on trust services in this country. Trust services are a legal figure that is akin to the Anglo-American legal system.

Act 9613/98, Article 9, Paragraph I, determines that Chapter 6 and Chapter 7 subject to the requirements of customer identification, record-keeping and suspicious transaction reports, establish investment advisors, respectively.

Concerning lawyers, notaries and accounting professionals, the Council for Financial Activities Control (COAF) is conducting a public consultation process[22] on its website, thereby inviting comments on the review of the Forty Recommendations as regards their extension to cover these non-financial businesses and professions. This Council wants to allow lawyers, notaries and accounting professionals to express their views on the issues

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[17] See Financial Action Task Force on Mondey Laundering (FATF). http://www1.oecd.org/fatf/40RecsReview_en.htm.

[18] Ibidem.

[19] *Executive Act 9.125, of 30 April 1946*

[20] The Council for Financial Activities Control (COAF) is the Brazilian Financial Intelligence Unit (FIU).

[21] See Council for Financial Activities Control (COAF). http://www.fazenda.gov.br/coaf/site/p_money.htm.

[22] See Council for Financial Activities Control (COAF). http://www.fazenda.gov.br/coaf/.

being discussed in the review process of the Forty Recommendations. The Council for Financial Activities Control has also been presenting seminars on this subject at the respective regulatory agencies – lawyers, Brazilian Bar Association; accounting professionals, National Association of Accounting Professionals, etc. It should be emphasised that Act 9613/98 already covers lawyers, notaries, accounting professionals and investment advisors as regards their criminal liability in money laundering activities, in light of Article 1.

IV. Travel Ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2b of resolution 1390 (2002)).

15. Please provide an outline of the legislative and or administrative measures, if any, taken to implement the travel ban.

In Brazil, the Federal Police Department, directly subordinated to the Ministry of Justice, is the competent organ to secure the frontiers, the airports and ports, as well as to act as border controller.

The General Co-ordination of Maritime, Airport and Frontier Police directs the Co-ordination of Migration, Application and Register of Foreigners – CIMCRE, the Police Co-ordination of Compulsory Evacuation – COPREC, Co-ordination of Migration Police – CPOI, the Co-ordination of Control and Expedition of Passports– COCEPA as well as the Police Service of Analysis and Investigation.

The Co-ordination of Migration, Application and Register of Foreigners (CIMCRE) is responsible for the management of the National System of Application and Register of Foreigners, which contain essential data about non diplomatic foreigners that reside in Brazil for a period of more than 90 days.

The Police Co-ordination of Compulsory Evacuation – COPREC manages the National System of Wanted People and Legal impediments (SINPI), which contain essential data about Brazilians and Foreigners against whom there are legal mandates of detention, as well as those people forbidden to enter or leave the country.

The Co-ordination of Migration Police (CPOI) manages the National System of International Traffic, which contains the registers of foreigners' entrances and exits into and out of Brazil.

The Co-ordination of Control and Expedition of Passports (COCEP) administrates the National System of Passports and the Police Service of Analysis and Investigation (SAIP) is the central organ of migratory police intelligence.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

All lists disclosed by the Security Council of the United Nations containing a relation of individuals against whom there is an order of restriction of movement are transmitted to the Federal Police by the Ministry of Foreign Relations. Those names are incorporated in the National System of Wanted People and Legal Impediments, followed by the legal instrument that authorises his/her detention. The intelligence unit also undertakes operations to locate those individuals in Brazil. In case they are located, the Federal Police takes the necessary steps to proceed to his/her detention.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

Despite the extension of Brazilian borders, one is only allowed to legally enter or leave the country by regular areas of border control of international traffic of persons. All control units that operate in such areas are properly equipped to consult all data banks of the above mentioned systems and have operational conditions to execute dictated measures.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

Until the present date, no persons against whom exist restrictions/sanctions concerning admission, transit or departure to/from Brazilian territory have been located in Brazil.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

Visas for other nationals of the countries of origin of those individuals that appear on the List are only issued after database is consulted. See item 15.

Until the present date, no individual whose name appears on the List has applied for a visa in a Consular office of Brazilian Embassy.

V. Arms Embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Usama Bin Laden, members of Al-Qaida organisation and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2(c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama Bin Laden, members of Al-Qaida organisation and the Taliban and other individuals, groups,

undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

21. What measures, if any, have you adopted to criminalise the violation of the arms embargo directed at Usama Bin Laden, members of Al-Qaida organisation and the Taliban and other individuals, groups, undertakings and entities associated with them?

22. Please describe how your arms arms broker licensing system, if any, can prevent Usama Bin Laden, members of Al-Qaida organisation and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted used by Usama Bin Laden, members of Al-Qaida organisation and the Taliban and other individuals, groups, undertakings and entities associated?

Brazilian exports of material with military use, and sensitive goods and services directly connected to them are subject to checks established by a series of directives that, taken together, conform the National Policy of Exports with Military Use (Portuguese acronym – PNEMEN).

Act 9.112, of 10/10/95, created the Interministerial Commission of Exports of Sensitive Goods, which is currently co-ordinated by the Ministry of Science and Technology and is integrated by the following organs: Ministry of External Relations (MRE) and the Ministry of Development, Industry and Foreign Trade (MDIC). The Commission periodically assesses the list of goods and services subject to the control regime, in accordance with the commitments that ensue from Brazilian participation in the Nuclear Suppliers Group (NSG), in the Missile Technology Control Regime (MTCR), in the Convention for the Prohibition of Chemical Weapons (CPAQ) and in the Convention for Prohibition of Biological Weapons (CPAB). The list is incorporated to the Foreign Trade System – SISCOMEX, which is the mechanism responsible for authorising and controlling all Brazilian exports and which holds the exclusive competence to issue export and import permissions, after obtaining the agreement of all entities concerned. The Secretary of Foreign Trade of MDIC operates SISCOMEX. The operations that exceed US$ 1 million must be signed by the Minister of Defence himself.

In accordance with the regulations of PNEMEN, the export permission is issued in two phases. The first phase regards the "preliminary negotiations", authorised by the Ministry of External Relations, so that a Brazilian enterprise may establish negotiations with foreign public or private potential clients. Previous to authorisation, the request is assessed taking into account the internal political conditions and international relationship of the country to which the merchandise will be sold. The authorisation, once given, expires in two years.

The second phase concerns the export itself, so that, regardless of the previous authorisation to establish negotiations, the enterprise must file a specific official request for each operation of export. The first pre-requisite is for the enterprise to possess a valid

authorisation for "preliminary negotiations"; the second is for the Brazilian government to deem that guarantees about the final destination of the product are satisfactory. Concerning sales to private enterprises such guarantee corresponds to the import licence issued by a competent authority in the country of destination, confirming that the concerned enterprise has legal permission to import such material and assuring that the material will not be re-exported without the express authorisation of the government of the importing country. With regard to sales to foreign governments, the guarantee corresponds to final use certificate, by which the government of the importing country pledges to use the material for one purpose only within its territory and not to re-export it without advance permission by the Brazilian government.

Regarding sensitive dual-use goods (chemical, biological, nuclear and missilistic), the export permission is issued only after the verification that all requisites prescribed in the norms and directives of each international regime have been fulfilled. For instance, nuclear goods in the NSG control list cannot be exported to countries that do not have comprehensive agreements with the IAEA. For certain categories of goods, the Brazilian government demands the presentation of governmental guarantees of the importing country concerning the final use or user of the good or technology to be transferred.

Until the present date, there are no registers of commercial transactions of weapons and military equipment involving Brazilian citizens and enterprises and persons and organisations indicated in Resolutions of the Security Council.

Additional information can be obtained in the Reports dated 26 December 2001 (S/2001/1285), 8 July 2002 (S/2002/796) and 15 March 2003 to the Counter-Terrorism Committee of the United Nations Security Council, concerning the application of Resolution 1373 (2001).

VI. Assistance and conclusion

24. Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.

26. Please include any additional information you believe pertinent.

Brazil is willing to maintain and enhance its (active) participation in assistance-related activities, such as the ones concerned with capacity training conducted through the sponsorship and/or support of the Inter-American Committee against Terrorism. For instance, it should be mentioned the interest in the oncoming Seminar to be held in Geneva (April 22nd -25th) entitled "Preventing Bio-Weapons Proliferation and Terrorism: Strengthening National Legislation and Law Enforcement".

In addition, the Specialized Working Group against Terrorism (SWGT), subordinated to MERCOSUR meetings of Ministries of Justice, has been promoting courses on police intelligence.

Brazil is likewise committed to furthering efforts under the so-called "3 + 1" mechanism, established in December 2002, which fosters cooperation between the Ministries of Foreign Relations of Argentina, Brazil and Paraguay and the U.S. State Department with regard to the issue of monitoring suspicious transactions potentially linked to terrorism financing at the Tri-Border area.